

**CALIFORNIA STATE PERSONNEL BOARD MEETING**

801 Capitol Mall  
Sacramento, California

Teleconference

320 West 4<sup>th</sup> Street - Suite 620  
Los Angeles, California

Public Session Location

801 Capitol Mall, Room 150  
Sacramento, California

Closed Session Location

801 Capitol Mall, Room 141  
Sacramento, California

**SUMMARY MINUTES - JANUARY 11, 2005**

## **FULL BOARD MEETING MINUTES<sup>1</sup>**

**JANUARY 11, 2005**

### **PUBLIC SESSION OF THE STATE PERSONNEL BOARD**

#### **1. ROLL CALL**

##### **Members Present:**

William Elkins, President  
Maeley Tom, Vice President  
Ron Alvarado, Member  
Sean Harrigan, Member  
Anne Sheehan, Member

#### **2. REPORT OF THE EXECUTIVE OFFICER - Floyd D. Shimomura**

- A.** Governor Schwarzenegger proposed State budget for the 2005-06 fiscal year totals \$111.7 billion. The proposed budget contains \$18.5 million for the State Personnel Board (SPB) and 128.7 positions. Essentially, this continues the SPB's current "base line" budget from the current year to the budget year without a significant change. Previously, Agency and Finance have indicated that they would permit the SPB to submit additional requests for funding this spring if necessary to implement recommendations adopted by the Governor from the California Performance Review (CPR).
- B.** In the "State of the State" address, Governor Schwarzenegger, among other things, indicated he would continue to implement some of the major recommendations of the California Performance Review (CPR). In particular, he highlighted the consolidation of the Teale Data Center and the HHS Data Center and also the consolidation of the Department of Corrections and the Youth Authority. He also announced the elimination of nearly 100 boards and commissions. We understand that other major structural changes will be "rolled-out" over the next five months. Among them, a proposal to consolidate the SPB and DPA as part of a larger Office of State Management (no Finance) is still being contemplated. In the meanwhile, the SPB is considering implementing some of the CPR's program changes even before they are mandated.

---

<sup>1</sup> The Minutes for the Board can be obtained at the following internet address:  
<http://www.spb.ca.gov/calendar.htm>

- C. The draft personnel audit of the Secretary of State's Office was sent to the Secretary of State's Office for review on December 28, 2004. A reply is now due by January 18, 2005. The SPB plans to release the personnel audit at the January 25, 2005, mid-month Board meeting.
- D. Cooperative Personnel Services (CPS) is a joint-powers agency and the SPB is one of ten agencies on the CPS Board. This year CPS allocated \$8,300 to each of the ten agencies on the board as their share of the 1 percent of total profits (\$8.3 million). The SPB has now accumulated around \$18,091 in "return to board" funds. Further discussions will take place on the nature of CPS, the SPB's role on the CPS Board, and policy governing the SPB's spending of its "return to board" allocation.

### **3. REPORT OF THE CHIEF COUNSEL - Elise Rose**

#### **Litigation:**

Paul Sulier v. SPB/CDC The Third District Court of Appeal issued a published decision holding that the giving of informal notice of proposed discipline is sufficient to satisfy the requirement under POBOR that notice of proposed discipline be given within one year after the employing agency discovers the misconduct. This decision overrules, in part, the SPB's precedential decision holding that formal notice of adverse action must be served within the 1-year period.

IUOE v. State of Ca (SPB) (PERB Case No. SA-CE-1295-S)

PERB denied motions of IUOE and DPA to reject SPB's exceptions to the ALJ decision in that case. PERB found SPB timely filed its exceptions.

State Compensation Insurance Fund (SCIF) v. SPB/CSEA (Sac. Sup. Ct. Case No. 04CS00049). Petition for writ of mandate filed by SCIF challenging the Board's disapproval of personal services contract. Issue is twofold: (1) whether the hiring freeze allowed SCIF to contract out for services that would have otherwise been performed by civil service employees; (2) whether SPB has authority to review State Fund contracts, given SCIFs constitutional grant of authority.

### **4. NEW BUSINESS**

**None**

**5. REPORT ON LEGISLATION - Sherry Hicks**

The SPB's Equal Employment Opportunity legislative proposal will be carried by Assembly Member Dymally. It is expected to be introduced on January 13, 2005.

The legislative proposal regarding the Notice to File Charges relating to Sexual Violent Predators is being reviewed by a member's office. It is anticipated that the member will carry it.

The Executive Officer will appear at the Public Employees, Retirement, and Social Security Committee's Orientation on January 19, 2005. This hearing is being held to offer the Chair, Assembly Member Alberto Torrico, the opportunity to gain knowledge of the various Departments and Boards that come before the committee.

**6. PROPOSED 2005 BOARD MEETING SCHEDULE**

**CLOSED SESSION OF THE STATE PERSONNEL BOARD**

**7. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY THE ADMINISTRATIVE LAW JUDGES (ALJs)**

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by ALJ of the State Personnel Board or by the Board itself. [Government Code sections 11126 (d), and 18653 (2).]

**8. PENDING LITIGATION**

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial. [Government Code sections 11126(e)(1) and 18653.]

State Personnel Board v. Department of Personnel Administration, California Supreme Court Case No. S119498.

State Personnel Board v. California State Employees Association, California Supreme Court Case No. S122058.

Connerly v. State Personnel Board, California Supreme Court Case No. S125502.

International Union of Operating Engineers v. State Personnel Board, Public Employment Relations Board (PERB) Case No. SA-CE-1295-S.

California Attorneys, Administrative Law Judges and Hearing Officers in State Employment, v. Department of Industrial Relations and California State Personnel Board, Sacramento Superior Court Case No. 04CS00677.

Caltrans v. SPB (Torossian)

Larry Moore v. SPB

**9. RECOMMENDATIONS TO THE LEGISLATURE**

Deliberations on recommendations to the Legislature. [Government Code section 18653.]

**10. RECOMMENDATIONS TO THE GOVERNOR**

Deliberations on recommendations to the Governor. [Government Code section 18653.]

**PUBLIC SESSION OF THE STATE PERSONNEL BOARD**

**11. DISCUSSION OF COMING BOARD MEETING SCHEDULE OF JANUARY 25, 2005, IN SACRAMENTO, CALIFORNIA**

**BOARD ACTIONS**

**12. ADOPTION OF STATE PERSONNEL BOARD SUMMARY MINUTES OF DECEMBER 1-2 AND DECEMBER 14, 2004**

**ACTION:** Adopted on January 11, 2005

**VOTE:** Elkins, Tom, Alvarado, Harrigan, Sheehan

**Addition to the minutes:** Board Member Ron Alvarado was elected PERS representative, and Board Member Maeley Tom was elected Vice-President of the State Personnel Board at the December 1-2, 2004 meeting.

**13. ACTION ON SUBMITTED ITEMS**

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those cases are listed separately by category on this agenda under Evidentiary Cases.

(See Minutes - Page 30)

**CLOSED SESSION OF THE STATE PERSONNEL BOARD**

**14. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS**

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126 (d), 18653.]

**PUBLIC SESSION OF THE STATE PERSONNEL BOARD**

**15. ORAL ARGUMENT**

Oral Argument in the matter of DOREATHA FLEMING, CASE NO. 03-2274A. Appeal from dismissal. Motor Vehicle Field Representative. Department of Motor Vehicles.

Person(s) Participating:  
Gary Ellison, Attorney, GKE Associates - Represented appellant

**CLOSED SESSION OF THE STATE PERSONNEL BOARD**

**16. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS**

Deliberations to consider matter submitted at a prior hearing. [Government Code sections 11126 (d), 18653.]

**PUBLIC SESSION OF THE STATE PERSONNEL BOARD**

**17. ORAL ARGUMENT**

Oral Argument in the matter of PRISCILA CRUZ, Case No. 04-0554EA - (Written record only). Appeal from discrimination complaint. Clinical Laboratory Scientist. California Medical Facility - Vacaville. Department of Corrections.

**CLOSED SESSION OF THE STATE PERSONNEL BOARD**

**18. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS**

Deliberations to consider matter submitted at a prior hearing. [Government Code sections 11126 (d), 18653.]

**PUBLIC SESSION OF THE STATE PERSONNEL BOARD**

**19. INFORMATIONAL HEARING - STATE WORKFORCE REPRESENTATION OF PERSONS WITH DISABILITIES**

Representatives for the California Governor's Committee on Employment of Persons with Disabilities, Department of Rehabilitation, Disabled in State Service and Department of Consumer Affairs were invited to discuss challenges and recommendations related to improving the state workforce representation of persons with disabilities.

Persons Participating:

Matilda Aidam, Manager, Office of Civil Rights, State Personnel Board  
Sonja Merold, Chief, Department of Consumer Affairs  
Dr. Catherine Campisi, Director, Department of Rehabilitation  
Linda Rogaski, Assistant Director, Employment Development Department

**PUBLIC SESSION OF THE STATE PERSONNEL BOARD**

**20. INFORMAL HEARING**

The SPB staff the opportunity to address the five-member Board (Board) regarding the legal and process issues raised by classification proposals negotiated within MOUs, which require action by the Board.

Persons Participating:

Karen Brandt, Senior Staff Counsel, State Personnel Board  
Karen Coffee, Chief, Merit Employment and Technical Resources Division, State Personnel Board

**PUBLIC SESSION OF THE STATE PERSONNEL BOARD**

**21. ORAL ARGUMENT**

Oral Argument in the matter of JOHN FLORES, CASE NO. 03-2588EA. Appeal of retaliation. Hospital Peace Officer I. Department of Mental Health.

Persons Participating:

Ira M. Salzman, Attorney at Law - Represented appellant  
Linda M. Nelson, Labor Relations Counsel, Department of Personnel Administration - Represented Department of Mental Health

**CLOSED SESSION OF THE STATE PERSONNEL BOARD**

**22. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS**

Deliberations to consider matter submitted at a prior hearing. [Government Code sections 11126 (d), 18653.]

**PUBLIC SESSION OF THE STATE PERSONNEL BOARD**

**23. ORAL ARGUMENT**

Oral Argument in the matter of HAJI JAMEEL, CASE NO. 04-0330A. Appeal from dismissal. Supervising Transportation Engineer. California Public Utilities Commission.

Persons Participating:

Steven Bassoff - Represented appellant

Fiel Dizon Tigno, Supervising Deputy Attorney General, Department of Justice - Represented California Public Utilities Commission

**CLOSED SESSION OF THE STATE PERSONNEL BOARD**

**24. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS**

Deliberations to consider matter submitted at a prior hearing. [Government Code sections 11126 (d), 18653.]

**PUBLIC SESSION OF THE STATE PERSONNEL BOARD**

**25. EVIDENTIARY CASES**

The Board ALJs conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

**A. BOARD CASES SUBMITTED**

These items have been taken under submission by the State Personnel Board at a prior meeting.



On January 11, 2005, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye.

**ANN R. ABIERAS, CASE NO. 04-0531A**

**AND**

**EVELYN B. CORPUS, CASE NO. 04-0529A**

Appeal from ten-percent reduction in salary for twelve months

Psychiatric Technician Assistants

Department of Developmental Services

**ACTION:** The Board issued a decision modifying the penalty for both appellants from a ten-percent reduction in salary for twelve months to a five-percent reduction in salary for twelve months.

**DANNY BOYD, CASE NO. 03-1537PA**

Appeal from dismissal

Youth Correctional Officer

Department of Youth Authority

**ACTION:** Submitted

**NICHOLAS COMAITES, CASE NO. 03-0062A**

Appeal from official reprimand

Correctional Counselor II

Department of Corrections

**AND**

**PAUL WARD, CASE NO. 03-0332A**

Appeal from official reprimand

Correctional Administrator

Department of Corrections

**ACTION:** The Board issued a decision revoking the Letters of Reprimand issued to both appellants, and directing the Department of Corrections to reinstate Comaites' name to the eligibility list for Correctional Captain from which it had been removed.

**DEBRA GREENE, CASE NO. 03-0621A**

Appeal from dismissal

Motor Vehicle Field Representative

Department of Motor Vehicles

**ACTION:** During its meeting of December 14, 2004, the Board issued a decision modifying appellant's dismissal to a suspension for one-year. At this meeting, the Board declined to designate the decision as precedential.

**RICHARD HARMON, CASE NO. 03-3739A**

Appeal from dismissal  
Psychiatric Technician Assistant  
Department of Developmental Services

**ACTION:** The Board issued a decision revoking appellant's dismissal.

**CONNIE JOHNSON, CASE NO. 03-2620RA**

Appeal from 30-calendar-days suspension  
Employment Program Representative  
Employment Development Department

**ACTION:** The Board issued a decision sustaining appellant's suspension for 30 days.

**EDWARD LIMON, CASE NO. 04-0233A**

Appeal from dismissal  
Parole Agent I  
Department of the Youth Authority

**ACTION:** Submitted

**VIRGINIA PARKER, CASE NO. 03-0325A**

Appeal from demotion  
Correctional Lieutenant  
Ironwood State Prison - Blythe  
Department of Corrections

**ACTION:** Submitted

**PEARLIE BLEDSOE-TOWNES, CASE NO. 03-2966A**

Appeal from denial of request for reasonable accommodation  
Correctional Sergeant  
Central California Women's Facility - Chowchilla  
Department of Corrections

**ACTION:** Submitted

**GARY WHALEY, CASE NO. 03-1420A**

Appeal from discrimination  
Employment Program Representative  
Employment Development Department

**ACTION:** The Board issued a decision finding that appellant had been discriminated against on the basis of race, and ordered the Employment Development Department to appoint appellant to a full-time Employment Program Representative position, with back pay and benefits.

**B. CASES PENDING**

**Oral Arguments**

These cases were on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

On January 11, 2005, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye.

**PRISCILA CRUZ, Case No. 04-0554EA - (Written record)**

Appeal from discrimination complaint  
Clinical Laboratory Scientist  
California Medical Facility - Vacaville  
Department of Corrections

**ACTION:** The Board will issue a resolution adopting the findings of fact and determination of issues of the ALJ dismissing appellant's appeal for failure of proof, but not adopting the Proposed Decision's order on p. 6 that the Department of Corrections must complete its investigation and issue its report within 60 days of receipt of any future EEO complaint that may be filed by appellant. Instead, the Board directs that, in the event that appellant, in the future, files a complaint for discrimination with the Department, the Department shall respond to that complaint in a timely fashion in accordance with applicable law. (The Chief Counsel's Office shall prepare the resolution.)

**DOREATHA FLEMING, CASE NO. 03-2274A**

Appeal from dismissal  
Motor Vehicle Field Representative  
Department of Motor Vehicles

**ACTION:** Submitted

**JOHN FLORES, CASE NO. 03-2588EA**

Appeal of retaliation  
Hospital Peace Officer I  
Department of Mental Health

**ACTION:** Submitted

**HAJI JAMEEL, CASE NO. 04-0330A**

Appeal from dismissal  
Supervising Transportation Engineer  
California Public Utilities Commission  
**ACTION:** Submitted

**C. CHIEF COUNSEL RESOLUTIONS**

On January 11, 2005, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye.

**REGINALD A. HONORE, CASE NO. 04-1440**

Merit Issue Complaint  
Hospital Police Officer  
Department of Mental Health

**ACTION:** The Board issued a resolution denying appellant's request for an order to show cause against the Department of Mental Health and denying appellant's request that the Department be directed to appoint him to a position as a Hospital Police Officer.

**Court Remands**

These cases have been remanded to the Board by the court for further Board action.

On January 11, 2005, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye.

**DIANA HENNING, CASE NO. 99-0772**

Appeal of medical termination/demotion/ transfer  
Institution Artist, Facilitator  
California State Prison - Susanville  
Department of Corrections

**ACTION:** The Board issued a resolution vacating its precedential decision in SPB Dec. No. 01-01, in compliance with the order of the Third Appellate District in California Department of Corrections v. State Personnel Board (2004) 121 Cal.App.4<sup>th</sup> 1601, and issuing a new precedential decision in SPB Dec. No. 05-01, that made the requisite changes to the decision mandated by the appellate court.

**Stipulations**

These stipulations have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

**None**

**Other**

On January 11, 2005, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye.

**RONALD FALLAI, CASE NO. 02-3425**

Appeal from dismissal  
Conservationist I, CCC  
California Conservation Corps

**ACTION:** The Board issued a resolution denying appellant's request for an investigation concerning the circumstances surrounding his dismissal from the California Conservation Corps.

**VERONICA GONZALEZ, CASE NO. 04-1878**

Appeal from dismissal  
Correctional Officer  
Ironwood State Prison - Blythe  
Department of Corrections

**ACTION:** The Board issued a resolution adopting the proposed decision of the ALJ that deemed appellant's appeal withdrawn due to her failure to appear at her hearing, but specifically declining to adopt that portion of the proposed decision that states, "it is highly unlikely that allowing appellant additional time would result in appellant's retention in state service, given her disqualification from possession of a firearm," and its accompanying footnote.

**JEANNIE TANAKA, CASE NOS. 03-2436 AND 04-0889**

Appeals from suspension  
Corporations Counsel  
Department of Corporations

**ACTION:** The Board issued a resolution permitting the parties to present evidence during the course of appellant's evidentiary hearing before an ALJ on the issues of whether the Department of Corporations attempted or carried out its obligation to comply with the terms of a settlement agreement reached in SPB Case No. 02-4045 and, if not, whether the Department's failure to meet its obligation to do so excuses or mitigates appellant's action or inaction, which are the subject of the appeals in Case Nos. 03-2436 and 04-0889.

**GEORGE WOODS, CASE NO. 01-1908**

Appeal from demotion

Chief Engineer I, CF

California Institution for Women - Corona

Department of Corrections

**ACTION:** The Board issued a resolution referring the case to the Chief ALJ for assignment to an evidentiary hearing to consider the issues of whether the Department of Corrections owes appellant any back salary, interest, or benefits under the terms of the Settlement and Release entered into between the parties in Case No. 01-1908.

**D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS**

**Proposed Decisions**

These are ALJ proposed decisions submitted to the Board for the first time.

On January 11, 2005, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye.

**VICTOR AUSTIN, CASE NO. 04-2350**

Appeal from five-percent reduction in salary for six months

Correctional Officer

California Correctional Institution - Tehachapi

Department of Corrections

**ACTION:** The Board adopted the ALJ's proposed decision sustaining five-percent reduction in salary for six months.

**DAVID BARTON, CASE NO. 04-1434**

Appeal from dismissal

Associate Hazardous Materials Specialist

Wasco State Prison - Wasco

Department of Corrections

**ACTION:** The Board rejected the ALJ's proposed decision and scheduled the matter for oral argument. The Chief Counsel's Office will prepare a resolution requesting that the parties brief the issue of what is the appropriate penalty for the proven misconduct.

**CLARENCE CARSON-PALMER, CASE NO. 04-1774**

Appeal from a one-step reduction in salary for twelve months  
Correctional Officer  
California State Prison - San Quentin  
Department of Corrections

**ACTION:** The Board adopted the ALJ's proposed decision sustaining one-step reduction in salary for twelve months.

**ERNEST J. DURAN, CASE NO. 04-0853**

Appeal from demotion  
Special Agent in Charge  
Department of Justice

**ACTION:** The Board rejected the ALJ's proposed decision and scheduled the matter for oral argument. The Chief Counsel's Office will prepare a resolution requesting that the parties brief the issue of what is the appropriate penalty for the proven misconduct.

**FRANK GARCIA, CASE NO. 04-0092**

Appeal from dismissal  
Chief Engineer I  
Avenal State Prison - Avenal  
Department of Corrections

**ACTION:** The Board adopted the ALJ's proposed decision, except for that portion of footnote three that states, "Resort to the EEO process, as alleged, cannot be a basis for discipline, even if a supervisor feels 'threatened' by it." The Chief Counsel's Office will prepare the resolution.

**ANTHONY GUBLER, CASE NO. 03-2774**

Appeal from dismissal  
CHP Officer  
Department of California Highway Patrol

**ACTION:** The Board adopted the ALJ's proposed decision sustaining dismissal.

**JOHN HANSEN, CASE NO. 04-1235**

Appeal from a one-step reduction in salary for twelve months  
Correctional Officer  
California State Prison - San Quentin  
Department of Corrections

**ACTION:** The Board adopted the ALJ's proposed decision sustaining one-step reduction in salary for twelve months.

**CHARLES HAVRON, CASE NO. 04-1674**

Appeal from demotion  
Correctional Sergeant to Correctional Officer  
California Correctional Institution - Tehachapi  
Department of Corrections

**ACTION:** The Board adopted the ALJ's proposed decision sustaining demotion.

**RAED KHAMMASH, CASE NO. 00-4307E**

Appeal from complaint of discrimination and retaliation  
Transportation Engineer  
Department of Transportation

**ACTION:** The Board adopted the ALJ's proposed decision denying complaint of disability discrimination.

**CHAD LOOK, CASE NO. 04-1789**

Appeal from 60-work-days suspension  
Correctional Officer  
Wasco State Prison - Wasco  
Department of Corrections

**ACTION:** The Board rejected the ALJ's proposed decision and scheduled the matter for oral argument. The Chief Counsel's Office will prepare a resolution requesting that the parties brief the issue of what is the appropriate penalty for the proven misconduct.

**SCOTT MCFARLANE, CASE NO. 04-1174**

Appeal from 15-work-days suspension  
CHP Officer  
Department of California Highway Patrol

**ACTION:** The Board adopted the ALJ's proposed decision sustaining 15-work-days suspension.

**WAYNE MCKAY, CASE NO. 04-0743**

Appeal from three-day suspension  
Associate Programmer Analyst  
State Water Control Resources Board

**ACTION:** The Board adopted the ALJ's proposed decision sustaining three-day suspension.



**JANE MOOTZ, CASE NO. 04-1177**

Appeal from official letter of reprimand and permanent reassignment  
Correctional Officer  
California Correctional Center - Susanville  
Department of Corrections

**ACTION:** The Board adopted the ALJ's proposed decision revoking  
Official reprimand and involuntary transfer.

**ARTURO RODRIGUEZ, CASE NO. 04-1471**

Appeal from dismissal  
Food Service Technician I  
Metropolitan State Hospital - Norwalk  
Department of Mental Health

**ACTION:** The Board adopted the ALJ's proposed decision sustaining  
dismissal.

**RICHARD SAUNDERS, CASE NO. 03-3752**

Appeal from demotion  
Correctional Sergeant to Correctional Officer  
California State Prison - Sacramento  
Department of Corrections

**ACTION:** The Board adopted the ALJ's proposed decision sustaining  
demotion.

**GEORGE SHINN, CASE NO. 04-0275**

Appeal from suspension for thirty-calendar-days Plumber II, (CF)  
California Rehabilitation Center - Norco  
Department of Corrections

**ACTION:** The Board adopted the ALJ's proposed decision sustaining  
thirty-calendar-days suspension.

**DAVID W. SMITH, CASE NO. 04-2042**

Appeal from official reprimand  
Correctional Officer  
California State Prison - Wasco  
Department of Corrections

**ACTION:** The proposed decision of the ALJ was withdrawn from  
consideration by the Board after the parties submitted a Stipulation and  
Release in the case. The Chief Counsel's Office will prepare a resolution  
concerning the propriety of the Stipulation and Release.

**TONYA TATUM, CASE NO. 04-1738**

Appeal from rejection during probationary period  
Motor Vehicle Field Representative  
Department of Motor Vehicles

**ACTION:** The Board adopted the ALJ's proposed decision sustaining rejection during probationary period.

**SHERI TEDISCO, CASE NO. 04-1512**

Appeal from a ten-work-days suspension  
Motor Vehicle Field Representative  
Department of Motor Vehicles

**ACTION:** The Board adopted the ALJ's proposed decision sustaining ten-work-days suspension.

**JENNIS F. WHITE, CASE NO. 04-1385E**

Appeal from denial of request for reasonable accommodation  
Principal Compliance Representative  
Franchise Tax Board

**ACTION:** The Board adopted the ALJ's proposed decision denying appeal of reasonable accommodation as untimely.

**SHARON WHITE, CASE NO. 04-2512E**

Appeal from denial of complaint of discrimination  
Correctional Officer  
California Institution for Women - Corona  
Department of Corrections

**ACTION:** The Board adopted the ALJ's proposed decision, except for footnote three. The Chief Counsel's Office will prepare a resolution clarifying the Board's findings in Clayton Carter (1994) SPB Dec. No. 94-21, and Robert Jenkins (1993) SPB Dec. No. 93-18. The resolution will also notify appellant that, although the ALJ's ruling dismissing appellant's request to have a co-worker disciplined for discriminatory conduct was legally correct, sufficient time exists for appellant to properly file a request-to-file-charges against the co-worker if appellant still desires to do so.

**DAVID R. WILLIAMS, CASE NO. 03-1143**

Appeal from ten-working-days suspension  
Engineer, WR  
Department of Water Resources

**ACTION:** The Board adopted the ALJ's proposed decision sustaining ten-working-days suspension.

**Proposed Decisions Taken Under Submission At Prior Meeting**

These are ALJ proposed decisions taken under submission at a prior Board meeting, for lack of majority vote or other reason.

**None**

**Proposed Decisions After Board Remand**

**None**

**Proposed Decisions After SPB Arbitration**

**None**

**E. PETITIONS FOR REHEARING**

**ALJ Proposed Decisions Adopted By The Board**

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

On January 11, 2005, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye.

**VALERIE GODFREY, CASE NO. 98-1070RP**

Appeal from dismissal

Youth Correctional Counselor

California Youth Authority

**ACTION:** Petition for Rehearing filed by appellant denied.

**MICHAEL HUDSON ET AL, CASE NO. 03-0756P**

Appeal from demotion  
Special Agent Supervisor to Special Agent  
Department of Justice

**AND**

**EDUARDO HEREDIA, CASE NO. 03-0763P**

Appeal from three-working-days suspension  
Special Agent  
Department of Justice

**AND**

**MITCHELL FOX, CASE NO. 03-0972P**

Appeal from three-working-days suspension  
Special Agent  
Department of Justice

**ACTION:** Petition for Rehearing filed by appellants denied.

**CAESAR NELSON, CASE NO. 04-1522P**

Appeal from ten-percent reduction in salary for six months  
Correctional Sergeant  
North Kern State Prison - Delano  
Department of Corrections

**ACTION:** Petition for Rehearing filed by appellant denied.

**PAUL REEDER, CASE NO. 04-0570P**

Appeal from 30-work-days suspension  
Correctional Officer  
Richard J. Donovan Correctional Facility - San Diego  
Department of Corrections

**ACTION:** Petition for Rehearing filed by appellant denied.

**Whistleblower Notice of Findings**

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

**None**

**F. PENDING BOARD REVIEW**

These cases are pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

**JENNIFER CADY, CASE NO. 03-3390EA**

Appeal from denial of request for reasonable accommodation  
Deputy Attorney General IV  
Department of Justice

**No action**

**SHARON COHEN, CASE NO. 03-3389EA**

Appeal from denial of request for reasonable accommodation  
Deputy Attorney General IV  
Department of Justice

**No action**

**JOHN A. CRUZ, CASE NO. 04-1376A**

Appeal from 60-calendar-days suspension  
Automotive Equipment Operator I  
California Department of Veterans Affairs

**No action**

**NESSLIN CRUZ, CASE NO. 03-1854A**

Appeal from ten-work-days suspension  
Employment Program Representative (Permanent/Intermittent)  
Employment Development Department

**No action**

**DON DOWLING, CASE NO. 04-1482A**

**AND**

**ROGER HANSON, CASE NO. 04-1523A**

Appeals from dismissal  
Police Officer I  
Department of Developmental Services

**No action**

**RUPERTO HERNANDEZ, CASE NO. 04-0914R**

Appeal from ten-percent reduction in salary for ten months  
Disability Insurance Program Representative (Permanent)  
Employment Development Department

**No action**

**JOE W. JORDAN, CASE NO. 04-0393A**

Appeal from dismissal  
Youth Correctional Counselor  
Department of Youth Authority

**No action**

**MICHAEL MCGUIRE, CASE NO. 04-0490A**

Appeal from demotion  
Program Director  
Department of Developmental Services

**No action**

**KIM RITTENHOUSE, CASE NOS. 03-3541A & 03-3542E**

Appeal from denial of reasonable accommodation and from constructive medical termination

Office Technician (General)  
Department of Fish and Game

**No action**

**SAMUEL SWEENEY, CASE NO. 04-0794A**

Appeal from 20-calendar-days suspension  
Correctional Officer

California Institution for Men - Chico  
Department of Corrections

**No action**

**ANTHONY VEGAS, Case No. 03-2204A**

Appeal from dismissal  
Parole Agent I (Adult Parole)  
Department of Corrections - Stockton

**No action**

**26. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE SECTION 18671.1 EXTENSION**

(See Minutes - Pages 31 & 32)

**27. NON-EVIDENTIARY CASES**

**A. WITHHOLD APPEALS**

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board was presented with recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

On January 11, 2005, the Board adopted the following decisions presented by Laura Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye.

**AMITY BAINBRIDGE, CASE NO. 04-0124**

**Classification:** Correctional Officer

**Department:** Corrections

**Issue:** Suitability; omitted pertinent information and furnished inaccurate information, negative employment record.

**ACTION:** Denied

**ADRIAN MANNS, CASE NO. 04-1247**

**Classification:** Correctional Officer

**Department:** Corrections

**Issue:** Suitability; omitted pertinent information during the selection process.

**ACTION:** Denied

**REUBEN SAVAIAKAI, CASE NO. 04-0123**

**Classification:** Correctional Officer

**Department:** Corrections

**Issue:** Suitability; felony conviction.

**ACTION:** Denied

**JON SPRING, CASE NO. 04-0812**

**Classification:** Correctional Officer

**Department:** Corrections

**Issue:** Suitability; omitted pertinent information and negative employment record.

**ACTION:** Denied

**B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS**

Cases heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board was presented with recommendations by a Hearing Panel on each appeal.

On January 11, 2005, the Board adopted the following decisions presented by Laura Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye.

**VIVIAN GALBRAITH, CASE NO. 04-2299**

**Classification:** Food Service Technician I

**Department:** Veterans Affairs

**ACTION:** Appellant did not appear for scheduled hearing.

**ROBERT THOMPSON, CASE NO. 04-2201**  
**Classification:** Youth Correctional Counselor  
**Department:** Youth Authority  
**ACTION:** Appellant withdrew appeal.

**C. EXAMINATION APPEALS**  
**MINIMUM QUALIFICATIONS**  
**MERIT ISSUE COMPLAINTS**

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board would have been presented with recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

**None**

**D. RULE 211 APPEALS**  
**RULE 212 OUT OF CLASS APPEALS**  
**VOIDED APPOINTMENT APPEALS**

Cases heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board would have been presented with recommendations by a Staff Hearing Officer for final decision on each appeal.

**None**

**E. REQUEST TO FILE CHARGES CASES**

Investigated by Appeals Division staff. The Board was presented with recommendations by Appeals Division staff for final decision on each request.

On January 11, 2005, the Board adopted the following decisions presented by Laura Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye.

**ROBERT NAPIER, CASE NO. 04-0881**  
**Classification:** Correctional Officer  
**Department:** Corrections  
**Issue:** The charging party requests charges be filed under various subsections of Government Code section 19572 against a state employee.  
**ACTION:** Denied



**DEAN PACINI, CASE NO. 04-0387**

**Classification:** Committed offender housed at Atascadero State Hospital

**Department:** Mental Health

**Issue:** The charging party has not provided sufficient evidence to sustain any claims against the charged party.

**ACTION:** Denied

**RONLYN VASCONCELLOS, CASE NO. 04-0580**

**Classification:** Associate Government Program Analyst

**Department:** State Water Resources Control Board (SWRCB)

**Issue:** The charging party requests charges be filed against three employees of the SWRCB.

**ACTION:** Denied

**PETITIONS FOR REHEARING CASES**

None

**F. PSYCHOLOGICAL SCREENING CASES**

Cases reviewed by Appeals Division staff, but no hearing was held. It is anticipated that the Board will act on these proposals without a hearing.

On January 11, 2005, the Board adopted the following decisions presented by Laura Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye.

**JERRY BROWDER, CASE NO. 04-2473**

**Classification:** Correctional Officer

**Department:** Corrections

**Issue:** Restoration of appellant's eligibility after disqualification lifted.

**ACTION:** The appellant's eligibility shall be restored and he shall be appointed within 120 days of this decision unless unsuccessful in the balance of the testing process.

**MELISSA GREER, CASE NO. 04-2472**

**Classification:** Medical Technical Assistant (CF)

**Department:** Corrections

**Issue:** Restoration of appellant's eligibility after disqualification lifted.

**ACTION:** The appellant's eligibility shall be restored and he shall be appointed within 120 days of this decision unless unsuccessful in the balance of the testing process.

**JOEL SANCHEZ, CASE NO. 04-2449**

**Classification:** Correctional Officer

**Department:** Corrections

**Issue:** Restoration of appellant's eligibility after disqualification lifted.

**ACTION:** The appellant's eligibility shall be restored and he shall be appointed within 120 days of this decision unless unsuccessful in the balance of the testing process.

**28. NON-HEARING CALENDAR**

The following proposals are made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff. It is anticipated that the Board will act on these proposals without a hearing.

Anyone with concerns or opposition to any of these proposals should submit a written notice to the Executive Officer clearly stating the nature of the concern or opposition. Such notice should explain how the issue in dispute is a merit employment matter within the Board's scope of authority as set forth in the State Civil Service Act (Government Code section 18500 et seq.) and Article VII, California Constitution. Matters within the Board's scope of authority include, but are not limited to, personnel selection, employee status, discrimination and affirmative action. Matters outside the Board's scope of authority include, but are not limited to, compensation, employee benefits, position allocation, and organization structure. Such notice must be received not later than close of business on the Wednesday before the Board meeting at which the proposal is scheduled. Such notice from an exclusive bargaining representative will not be entertained after this deadline, provided the representative has received advance notice of the classification proposal pursuant to the applicable memorandum of understanding. In investigating matters outlined above, the Executive Officer shall act as the Board's authorized representative and recommend the Board either act on the proposals as submitted without a hearing or schedule the items for a hearing, including a staff recommendation on resolution of the merit issues in dispute.

- A.** The Legislative Counsel Bureau (LCB) proposes the following:
- (1) Acknowledgement of law authorizing the LCB to continue the demonstration project classification and selection methods on a permanent basis,
  - (2) Adoption of the proposed amendments to the broadband classification series specification of Information Technician, Information Technology Specialist, and Information Systems Supervisor/Manager; and
  - (3) Adoption of proposed amendments to Title 2, California Code of Regulations (2CCR) §§ 549.70 through 549.74

**ACTION:** The Board adopted the legislative items.

**29. STAFF CALENDAR ITEMS FOR BOARD INFORMATION**

**None.**

**30. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY**

This section of the Agenda serves to inform interested individuals and departments of proposed and approved CEA position actions.

The first section lists position actions that have been proposed and are currently under consideration.

Any parties having concerns with the merits of a proposed CEA position action should submit their concerns in writing to the Classification and Compensation Division of the Department of Personnel Administration, the Merit Employment and Technical Resources Division of the State Personnel Board, and the department proposing the action.

To assure adequate time to consider objections to a CEA position action, issues should be presented immediately upon receipt of the State Personnel Board Agenda in which the proposed position action is noticed as being under consideration, and generally no later than a week to ten days after its publication.

In cases where a merit issue has been raised regarding a proposed CEA position action and the dispute cannot be resolved, a hearing before the five-member Board may be scheduled. If no merit issues are raised regarding a proposed CEA position action, and it is approved by the State Personnel Board, the action becomes effective without further action by the Board.

The second section of this portion of the Agenda reports those position actions that have been approved. They are effective as of the date they were approved by the Executive Officer of the State Personnel Board.

**A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER CONSIDERATION**

**DEPUTY COMMISSIONER, OFFICE OF COMMUNICATIONS AND PRESS RELATIONS**

The Department of Insurance proposes to allocate the above position to the CEA category. The Deputy Commissioner, Office of Communications and Press Relations provides expertise, advice, and strategic direction regarding the Department's complex public communications and press relations program. The position formulates policy regarding appropriate shaping and delivery of the Department's message through all mediums, acting as the Insurance Commissioner's primary spokesperson to the public and the media.

**DIRECTOR, STRATEGY/PLANNING AND LABOR LIAISON**

The Department of Insurance proposes to allocate the above position to the CEA category. The Director, Strategy/Planning and Labor Liaison acts as the Appointments Advisor to the Commissioner on matters pertaining to the appointing of members of the various advisory boards and committees and manages the Departmental Strategic Plan. The position works collaboratively with members of Executive Staff and other managers of the Department to establish time frames for the review and completion of major tasks and projects that support the Commissioner's vision and mission for the Department.

**DEPUTY COMMISSIONER, ENFORCEMENT BRANCH**

The Department of Insurance proposes to allocate the above position to the CEA category. The Deputy Commissioner, Enforcement Branch formulates policy, plans, organizes and directs all law enforcement and related operations statewide for the Department's Fraud and Investigation Divisions. The position acts as the key policy advisor to the Insurance Commissioner on all matters pertaining to police and law enforcement operations and all other areas relating to the Department's anti-fraud and consumer protection programs.

**CHIEF, INVESTIGATION DIVISION**

The Department of Insurance proposes to allocate the above position to the CEA category. The Chief, Investigation Division, develops policy in support of the detection, investigation and prosecution, criminal or administrative, of crimes and violations of Departmental jurisdiction in support of consumer protection from insurance crimes and violations.

**PROJECT MANAGER, PENSION SYSTEM REPLACEMENT**

The California Public Employees' Retirement System (CalPERS) requests approval to allocate the above position to the CEA category. The Project Manager, Pension System Replacement manages, directs and provides policy direction to all activities associated with the completion of the Pension System Replacement including strategy development, requirements development, acquisition, design, development, implementation, conversion, and maintenance of appropriate software to complete replacement of the existing CalPERS Legacy pension systems.

**CHIEF, PRODUCTION AND OPERATIONS MANAGEMENT DIVISION**

The Employment Development Department proposes to allocate the above position to the CEA category. The Chief, Production and Operations Management Division is responsible for policy development, operations management and support for the Department's vast IT infrastructure and systems, supporting all of the Department's major programs, including Unemployment Insurance (UI), Disability Insurance (DI), Tax Collection, Job Services, and Workforce Development.

**ACTION:** Noted

**B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW CEA POSITIONS**

**DEPUTY DIRECTOR, OFFICE OF PROBLEM GAMBLING**

The Department of Alcohol and Drug Program's request to allocate the above position to the CEA category has been approved effective November 30, 2004, for a period of one year.

**DEPUTY DIRECTOR, EXHIBITS**

The California Science Center's request to allocate the above position to the CEA category has been approved effective November 30, 2004.

**DEPUTY DIRECTOR, ADMINISTRATION**

The California Science Center's request to allocate the above position to the CEA category has been approved effective November 30, 2004.

**PROJECT MANAGER, PRISON LAW OFFICE, REMEDIAL PLAN IMPLEMENTATION**

The Department of Youth Authority's request to allocate the above position to the CEA category has been disapproved effective December 16, 2004.

**STATE GEOLOGIST, ASSISTANT DIRECTOR, CALIFORNIA  
GEOLOGICAL SURVEY**

The Department of Conservation's request to allocate the above position to the CEA category has been approved effective December 17, 2004.

**DEPUTY DIRECTOR, ASSET MANAGEMENT**

The California Housing Finance Agency's request to allocate the above position to the CEA category has been approved effective December 17, 2004.

**ASSISTANT DEPUTY DIRECTOR, EMERGENCY PREPAREDNESS  
OFFICE**

The Department of Health Services' request to allocate the above position to the CEA category has been approved effective December 20, 2004.

**DEPUTY DIRECTOR, EMERGENCY PREPAREDNESS OFFICE**

The Department of Health Services' request to allocate the above position to the CEA category has been approved effective December 20, 2004.

**ASSISTANT DEPUTY DIRECTOR, MEDICAL CARE SERVICES**

The Department of Health Services' request to allocate the above position to the CEA category has been approved effective December 20, 2004.

**ACTION:** Noted

- 30. **WRITTEN STAFF REPORT FOR BOARD INFORMATION**
- 31. **PRESENTATION OF EMERGENCY ITEMS AS NECESSARY**

**A D J O U R N M E N T**

**SUBMITTED**

**TEACHER STATE HOSPITAL (SEVERELY), ETC.**

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002)

**No Action**

**VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES)**

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

**No Action**

**TELEVISION SPECIALIST (SAFETY)**

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

**No Action**

**HEARING - PSC #04-03**

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

**No Action**

**HEARING**

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004).

**No Action**

**NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION**

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.



**GOVERNMENT CODE § 18671.1 RESOLUTION**

**WHEREAS**, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

**WHEREAS**, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

**WHEREAS**, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

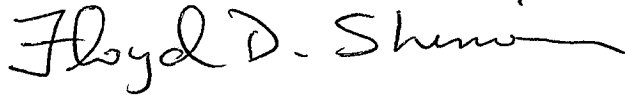
**WHEREAS**, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

\* \* \* \* \*

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on January 11, 2005.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan - Aye

A handwritten signature in black ink, reading "Floyd D. Shimomura". The signature is written in a cursive style with a long horizontal flourish at the end.

FLOYD D. SHIMOMURA  
Executive Officer  
California State Personnel Board